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2 The Honorable Thomas S. Zilly  
3 Trial Date: June 3, 2019  
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IN THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

10 BAO XUYEN LE, INDIVIDUALLY, and  
11 as the Court appointed PERSONAL  
12 REPRESENTATIVE OF THE ESTATE  
13 OF TOMMY LE, HOAI "SUNNY" LE,  
14 Tommy Le's Father, DIEU HO, Tommy  
15 Le's Mother, UYEN LE and BAO XUYEN  
16 LE, Tommy Le's Aunts, KIM TUYET LE,  
17 Tommy Le's Grandmother, and QUOC  
18 NGUYEN, TAM NGUYEN, DUNG  
19 NGUYEN, JULIA NGUYEN AND  
20 JEFFERSON NGUYEN, Tommy Le's  
Siblings,

Plaintiffs,

v.

MARTIN LUTHER KING JR. COUNTY  
as sub-division of the STATE of  
WASHINGTON, and KING COUNTY  
DEPUTY SHERIFF CESAR MOLINA.

Defendants.

NO. 2:18-CV-00055-TSZ

**PLAINTIFFS' SECOND AMENDED  
COMPLAINT FOR DAMAGES for  
VIOLATION OF CIVIL RIGHTS  
42 U.S.C. § 1983, and under WASHINGTON  
STATE LAW: TORTS OF WRONGFUL  
DEATH (RCW 4.20.020) & SURVIVAL  
ACTION (RCW 4.20.060), NEGLIGENCE,  
NEGLIGENT TRAINING and, and  
TORT OF OUTRAGE**

**Jury Trial Requested**

1 Plaintiffs Le, Ho, and Nguyen by and through their attorneys Campiche Arnold, PLLC and for  
2 this Complaint allege:

3

4 **1. JURISDICTION AND VENUE**

5 1. This action is brought  
6 pursuant to 42 U.S.C. § 1983 for violation  
7 of the Fourth and Fourteenth Amendments  
8 to the United States Constitution, and  
9 various Washington State constitutional,  
10 statutory, and common law tort claims.  
11 This Court has original jurisdiction over the  
12 plaintiffs' claims for violations of the  
13 United States Constitution and the  
14 deceased Tommy Le's civil rights, pursuant  
15 to 28 U.S.C. §§ 1331, 1343, and 1376 *et. seq.*  
16

17 2. Venue is appropriate in the U.S. District Court, Western District of Washington at  
18 Seattle, pursuant to 28 U.S.C. § 1391 because the defendants are all believed to reside in the district,  
19 the municipal corporations of Martin Luther King Jr. County (King County), and the King County  
20 Sheriff's Office is located in the district, the plaintiffs all reside in the district, and because the shooting  
21 of Tommy Le and medical treatment occurring in the last hours of his life all occurred in the district.  
22  
23



3. There exists a common nucleus of operative facts as to plaintiffs' Washington State and federal claims. As a consequence, this Court has pendent or supplemental jurisdiction over the Washington State claims pursuant to 28 U.S.C. § 1337.

## 2. PARTIES

## 2.A Plaintiffs

4. Plaintiffs are residents of the Western District of Washington, all but one of which reside in Seattle, King County, Washington. Plaintiff Uyen Le is a resident of Snohomish County, Washington.

5. Boa Xuyen Le is the Court Appointed Personal Representative of the Estate of Tommy Le.

6. Hoai "Sunny" Le is the father of the deceased Tommy Le.

7. Dieu Ho is the mother of the deceased Tommy Le.

8. Uyen Le and Bao Xuyen Le are the aunts of the deceased Tommy Le.

9. Kim Tuyet Le is the grandmother of the deceased Tommy Le.

10. Quoc Nguyen, Tam Nguyen, Dung Nguyen, Julia Nguyen, and Jefferson Nguyen are the brothers and sisters of the deceased Tommy Le.

## 2.B Defendants

11. X

12 X

13. King County is a political sub-division of the State of Washington with the right to sue and be sued in its own name and stead

14 X

15. King County Deputy Sheriff Cesar Molina is and was a King County Deputy Sheriff employed by Defendant King County Sheriff's Office, who on June 14<sup>th</sup>, 2017, under the color of state law and acting in the scope of his employment as a King County Deputy Sheriff, shot and killed Tommy Le.

### 3. CLAIM FOR DAMAGES

16. A Claim for Damages and Amended Claim were properly filed with Defendants King County, and the King County Sheriff. More than 60 days has passed without a response from any defendant. Attached hereto, as Attachment No. 1, is a copy of Plaintiffs' Amended Claim for Damages, which by this reference is incorporated in this Complaint.

**4. JURY DEMAND**

17. Pursuant to Fed. R. Civ. Pro. 38, plaintiffs hereby request a trial by jury.

## 5. BACKGROUND FACTS

18. On June 14<sup>th</sup>, 2017, Tommy Le was scheduled to graduate from high school.

19. Tommy Le was of Asian, specifically Vietnamese, descent.

20. As is the tradition in many families who immigrate from Vietnam, Tommy Le was raised by his extended family that included his paternal grandmother, Plaintiff Kim Tuyet Le, his father Plaintiff Hoai “Sunny” Le, his mother Plaintiff Dieu Ho, his aunts Plaintiffs Boa Xuyen Le and Uyen Le, and his (half) brothers and sisters, Plaintiffs Quoc Nguyen, Tam Nguyen, Dung Nguyen, Julia Nguyen, and Jefferson Nguyen.

21. The Le family were Vietnamese refugees to the United States and of the Buddhist faith.

22. Tommy Le was born in the United States of America and was a United States citizen of Asian descent.

1       23. The Le family, including Tommy Le, placed a very high value on human life and  
2 opposed the use of violence.

3       24. Prior to his death, Tommy Le had never been arrested for, much less convicted of a  
4 crime.

5       25. At the time of his death, Tommy Le was five feet four inches (5'4") tall and weighed  
6 120 pounds, and was substantially smaller in stature and weight than the much larger and physically fit  
7 King County Deputy Sheriffs who were involved in his death.

8       26. The King County Deputy Sheriffs involved in Tommy Le's death were not Asian.

9       27. At the time relevant to this lawsuit, Defendant King County had a duty to properly select,  
10 train, and supervise King County Deputy Sheriffs to understand and comply with the requirements of  
11 the United States Constitutional limitations on the use of deadly force, to employ less than lethal  
12 methods of detaining individuals including individuals who appear to be suffering from some type of  
13 mental illness or delusions, and to de-escalate encounters with individuals who appear hostile,  
14 impaired, emotional, or mentally disturbed, to restrain from racially selective police practices and to  
15 avoid the use of deadly force unless necessary to protect against immediate danger of death or serious  
16 injury to officers or others.

17       28. At the time relevant to this lawsuit, Defendant King County breached its duty to  
18 properly select, train, and supervise King County Deputy Sheriffs to understand and comply with the  
19 requirements of the United States Constitutional limitations on the use of deadly force, to employ less  
20 than lethal methods of detaining individuals including individuals who appear to be suffering from some  
21 type of mental illness or delusions, and to de-escalate police encounters with individuals who appear  
22 hostile, impaired, emotional, or mentally disturbed, to restrain from racially selective police practices and

1 to avoid the use of deadly force unless necessary to protect against immediate danger of death or serious  
2 injury to officer or others.

3 29. In June 2017 King County Deputy Sheriff Cesar Molina was employed as a King County  
4 Sheriff's Deputy.

5 30. On June 14<sup>th</sup>, 2017 in King County, Washington, King County Deputy Sheriff Cesar  
6 Molina shot and killed Tommy Le.

7 31. At the time that King County Deputy Sheriff Cesar Molina shot and killed Tommy Le,  
8 King County Deputy Sheriff Cesar Molina was acting under the color of state law and within the scope  
9 and course of his employment as a King County Deputy Sheriff.

10 32. King County Deputy Sheriff Cesar Molina's decision to employ deadly force and to  
11 shoot and kill unarmed Tommy Le in the back was in part caused by the negligent failure of his  
12 employer's selection, training, and supervision of King County Deputy Sheriffs, including the failure  
13 to properly emphasize and train the deputies to restrain from racially selective police practices, in  
14 effective de-escalation techniques and non-lethal methods of detention and arrest.

15 33. The named defendants and all law enforcement officers, including the King County  
16 Sheriff's Office, have a duty to protect human life.

17 34. Law enforcement officers have a duty to help individuals suffering from a period of  
18 emotional and mental impairment.

19 35. King County Deputy Sheriff Cesar Molina had a legal duty to restrain from racially  
20 selective police practices, to employ de-escalation techniques and non-lethal detention methods to  
21 detain Tommy Le, before he shot and killed Tommy Le.

1       36. King County Deputy Sheriff Cesar Molina did not restrain from racially selective police  
2 practices, use de-escalation and effective non-lethal techniques to detain Tommy Le before he shot and  
3 killed Tommy Le.

4       37. King County Deputy Sheriff Cesar Molina did not effectively use available and effective  
5 non-lethal techniques to detain Tommy Le before he shot and killed Tommy Le.

6       38. The King County Deputy Sheriffs who were at the scene of the incident that led to the  
7 death of Tommy Le did not employ available and effective de-escalation techniques with Tommy Le  
8 before Tommy Le's death.

9       39. Deputy Sheriffs and defendants, including King County Deputy Sheriff Cesar Molina,  
10 did not have probable cause to believe that Tommy Le posed an imminent threat of death or serious  
11 physical injury to King County Deputy Sheriff Cesar Molina, the other King County Deputy Sheriffs,  
12 or to others, at the time that King County Deputy Sheriff Cesar Molina employed deadly force on  
13 Tommy Le.

14       40. Tommy Le was unarmed when King County Deputy Sheriff Cesar Molina shot and  
15 killed Tommy Le.

16       41. All of the King County Deputy Sheriffs present at the time and place where Tommy Le  
17 was fatally shot were all armed with lethal and non-lethal weapons.

18       42. All of the King County Deputy Sheriffs present at the time and place where Tommy Le  
19 was fatally shot were physically stronger, larger, and more physically capable than Tommy Le and  
20 were trained in physical defensive tactic including "take down" movements.

1       43. The King County Sheriff's Office claims that at the time Tommy Le was shot by King  
2 County Deputy Sheriff Cesar Molina, Tommy Le possessed a black Papermate "1.0 m" ballpoint  
3 medium point ink pen.



4       44. The Papermate ballpoint medium point  
5 ink pen thought to be held by Tommy Le when he was shot  
6 was not a weapon and could not inflict death or serious  
7 physical injury

8       45. At the time of the shooting, Tommy Le  
9 was wearing shorts and a T-shirt.

10       46. At the time of the shooting, there was no  
11 place to conceal a knife or weapon on Tommy Le's person.

12       47. In his post shooting statement, King  
13 County Deputy Sheriff Cesar Molina did not claim to have  
14 seen a knife or deadly weapon in Tommy Le's hands.

15       48. A TASER™ or tazer (taser) is an electrical  
16 weapon that when properly deployed fires two dart-like  
17 electrodes, which stay connected to the weapon and deliver  
18 an electric charge that immobilizes the person "tazed".

19       49. King County Deputy Sheriffs Molina and  
20 Owen both independently attempted to tase Tommy Le in the  
21 chest before King County Deputy Sheriff Cesar Molina fatally shot Tommy Le with a 9mm handgun.

22       50. The maximum range of the tasers Defendant King County Deputy Sheriffs deployed  
23 against Tommy Le was 25 feet.

1       51. The tasers the Defendant King County Deputy Sheriffs deployed against Tommy Le  
2 were ineffective due to improper maintenance, deployment, or use.

3       52. Defendants King County Deputy Sheriff Molina and other King County Deputy Sheriffs  
4 made a decision not to employ available and effective de-escalation tactics or non-lethal methods of  
5 detaining (for example a physical take down) Tommy Le.

6       53. At the time, place, and circumstances of Tommy Le's shooting death, the proper use of  
7 alternative non-lethal methods, de-escalation tactics, and physical non-lethal force would have  
8 effectively detained Tommy Le.

9       54. The use of deadly force was not necessary to detain Tommy Le.

10       55. The use of deadly force was not necessary to protect the King County Deputy Sheriffs  
11 or other individuals present from imminent death or serious physical injury.

12       56. King County Deputy Sheriff Cesar Molina shot Tommy Le three times in the back with  
13 a 9 mm handgun.

14       57. The 9 mm bullets used to shoot and kill Tommy Le were hollow point 9mm bullets,  
15 which is an expanding bullet with a hollowed-out tip designed to expand and flatten when it enters a  
16 human body so as to disrupt more tissue as it travels through the person's body.

17       58. The use of hollow point ammunition in warfare is barred by The Hague Convention;  
18 the relevant portion of which reads: "*the contracting parties agree to abstain from the use of bullets  
which expand or flatten easily in human body. . .*"

1       59. The King County Medical Examiner described the gunshot wounds that caused Tommy  
2 Le's death:

3       a.       “penetrating handgun wound of the left lateral back with the entrance wound,  
4 left lateral back, (4.24 inches to the left of midline and 42.5 inches superior to the heels)  
5 perforation of the left kidney, spleen and liver, and the bullet recovered from the right anterior  
6 chest wall.” The path of the bullet “back to front, left to right, and slightly upwards”.

7       b.       “penetrating handgun wound of the medial left back, (0.5 inches to the left of  
8 midline and 40.5 inches superior to the heels) with entrance wound, medial left back,  
9 perforation of the right kidney and liver and the bullet recovered from right lateral chest wall.”  
10 The path of the bullet is back to front, left to right and slightly upwards”.

11       c.       Perforation handgun wound of the left wrist, entrance wound, ulnar left wrist,  
12 perforation of the soft tissues and 5<sup>th</sup> metacarpal bone, with exit wound, palmar left hand”.

13       60. Bullet wounds that penetrate the kidney, liver, and spleen are very painful and after a  
14 period of time, usually fatal.

15       61. After Tommy Le had turned away from King County Deputy Sheriff Cesar Molina and  
16 from the other officers and citizens, King County Deputy Sheriff Cesar Molina shot Tommy Le twice  
17 in the mid back and one time in his wrist at close range with a 9 mm handgun.

18       62. At the moment King County Deputy Sheriff Cesar Molina shot to kill Tommy Le,  
19 Tommy Le was not advancing towards Deputy Molina or the other deputies or persons.

20       63. No other person was struck by bullets.

21       64. Several bullets shot by King County Deputy Sheriff Cesar Molina at Tommy Le missed  
22 Tommy Le and lodged in a home across the street.

23       65. The King County Sheriff's Office issued King County Deputy Sheriff Cesar Molina the  
24 9 mm handgun he used to shoot and kill Tommy Le.

1       66.    Tommy Le did not touch or inflict any wounds on any of the King County Deputy  
2 Sheriffs or other persons present at the time that King County Deputy Sheriff Cesar Molina shot and  
3 killed Tommy Le.

4       67.    King County Deputy Sheriff Cesar Molina shot Tommy Le in the back, twice in his mid-  
5 back and once in the back of his forearm.

6       68.    At the time King County Deputy Sheriff Cesar Molina shot Tommy Le in the back,  
7 Tommy Le was unarmed.

8       69.    At the time King County Deputy Sheriff Cesar Molina shot Tommy Le in the back  
9 Tommy Le was walking away from King County Deputy Sheriff Cesar Molina, Deputy Owen, the  
10 other King County Deputy Sheriffs and other present persons.

11       70.    At the time King County Deputy Sheriff Cesar Molina shot Tommy Le, Tommy Le  
12 lacked the present capacity to cause serious physical injury or death to King County Deputy Molina,  
13 the other deputy Sheriffs, or any other individuals present.

14       71.    At the time King County Deputy Sheriff Cesar Molina shot Tommy Le in the back, he  
15 knew or had sufficient information for a reasonably competent police officer to know or suspect that  
16 Tommy Le was suffering from some type of mental impairment or confusion and required assistance.

17       72.    At the time King County Deputy Sheriff Cesar Molina shot and killed Tommy Le, there  
18 were not objective facts providing probable cause to believe that the unarmed 120 pound Tommy Le  
19 presented an imminent risk of causing serious physical injury or death to the King County Sheriff  
20 Deputies or other individuals.

21       73.    At the time of the fatal shooting, Tommy Le was in the presence of a number of armed,  
22 trained, and equipped King County Deputy Sheriffs who were all wearing protective clothing.

1       74. Any one of the King County Deputy Sheriffs present when King County Deputy Sheriff  
2 Cesar Molina shot to kill Tommy Le was capable of physically detaining, seizing, or restraining Tommy  
3 Le by employing less than deadly force.

4       75. Together the several King County Deputy Sheriffs were capable of physically detaining,  
5 seizing, or restraining Tommy Le by employing less than deadly force.

6       76. At the time King County Deputy Sheriff Cesar Molina shot to kill Tommy Le, it was  
7 not necessary to employ deadly force to detain, seize, or restrain Tommy Le.

8       77. King County Deputy Sheriff Cesar Molina knew that the use of deadly force was not  
9 necessary to detain, seize, or restrain Tommy Le.

10       78. King County Deputy Sheriff Cesar Molina knew that there were available effective  
11 alternative methods to the use of deadly force to detain, seize, or restrain Tommy Le.

12       79. King County Deputy Sheriff Cesar Molina's use of deadly force to detain, seize, or  
13 restrain Tommy Le constituted use of excessive (deadly) force.

14       80. King County Deputy Sheriff Cesar Molina's use of excessive (deadly) force to seize  
15 Tommy Le violated Tommy Le's United States Constitutional Fourth Amendment right to be free from  
16 unreasonable seizure.

17       81. King County Deputy Sheriff Cesar Molina's use of excessive (deadly) force to seize  
18 Tommy Le constituted racially selective use of deadly force and violated Tommy Le's United States  
19 Constitutional 14<sup>th</sup> Amendment right to be free racially based selective policing practice and use of  
20 deadly force.

21       82. After King County Deputy Sheriff Cesar Molina shot Tommy Le three times, the King  
22 County Deputy Sheriff handcuffed Tommy Le despite the profuse bleeding from his very serious bullet  
23 wounds.

1       83.    A competent police officer would have known that the use of deadly force to detain,  
2 seize, or restrain Tommy Le, violated clearly established statutory and constitutional prohibitions on  
3 the use of deadly force and violated Tommy Le's state and federal constitutional rights to be free from  
4 the use of excessive, deadly force.

5       84.    A competent police officer would have known that the use of deadly force to detain,  
6 seize, or restrain Tommy Le, violated clearly established statutory and constitutional prohibitions on  
7 the use of racially selective deadly force and violated Tommy Le's state and federal constitutional rights  
8 to be free racially selective policing practices and deadly force.

9       85.    King County Deputy Sheriff Cesar Molina knew or a reasonable law enforcement  
10 officer would have known that the use of deadly force upon the fleeing unarmed Tommy Le violated  
11 Tommy Le's clearly established statutory and constitutional rights to be free of excessive force upon  
12 detention or arrest.

13       86.    The King County Sheriff's Office use of deadly force to detain, seize, or restrain Tommy  
14 Le, violated clearly established statutory and constitutional rights.

15       87.    The King County Sheriff's Office use of deadly force to detain, seize, or restrain Tommy  
16 Le was unlawful.

17       88.    The King County Sheriff's Office knew that King County Deputy Sheriff Cesar  
18 Molina's use of deadly force to detain, seize, or restrain Tommy Le violated clearly established  
19 statutory and constitutional rights.

20       89.    The King County Sheriff's Office knew that the King County Sheriff's Office use of  
21 deadly force to detain, seize, or restrain Tommy Le violated clearly established statutory and  
22 constitutional rights.

1       90. King County Deputy Sheriff Cesar Molina knew, or should have known, that the use of  
2 deadly force to detain, seize, or restrain Tommy Le violated clearly established statutory and  
3 constitutional rights.

4       91. King County Deputy Cesar Molina knew, or should have known, that racial selective  
5 law enforcement is prohibited by both state and federal statutes and constitutions.

6       92. One factor that influenced King County Deputy Sheriff Cesar Molina's decision to  
7 employ deadly force by shooting unarmed Tommy Le was Tommy Le being of Asian descent.

8       93. Racially selective enforcement of the law including the employment of deadly force  
9 violates the equal protection clause of the 14<sup>th</sup> Amendment of the United States Constitution.

10       94. King County Deputy Sheriff Cesar Molina's use of deadly force upon the unarmed  
11 Tommy Le violated Tommy Le's United States Constitutional 14<sup>th</sup> Amendment right that citizens of  
12 all races are to receive equal treatment by law enforcement.

13       95. Clearly established statutory and case law restrict the employment of deadly force to  
14 situations where objective facts support the conclusion that the use of deadly force is necessary for a  
15 police officer to protect against imminent risk of serious physical injury or death.

16       96. The King County Deputy Sheriffs, including King County Deputy Sheriff Cesar Molina  
17 and the Deputy Sheriffs present when Deputy Molina shot to kill Tommy Le, knew that the use of  
18 deadly force to detain, seize, or restrain Tommy Le violated clearly established statutory and  
19 constitutional rights.

20       97. The King County Sheriff's Office knew that at the time King County Deputy Sheriff  
21 Cesar Molina shot to kill Tommy Le, Tommy Le was not armed with a knife or other weapon capable  
22 of inflicting serious injury or death.

1       98. Prior to speaking with the press, public, and the Le family, the King County Sheriff's  
2 Office knew that Tommy Le was not armed with a knife or other dangerous object when he was shot  
3 and killed by King County Deputy Sheriffs.

4       99. At the time and place that King County Deputy Sheriff Cesar Molina shot to kill Tommy  
5 Le, there were at least five (5) armed deputy sheriffs present, who were capable of physically restraining  
6 and arresting the unarmed 120 pound student without the use of deadly force.

7       100. After being shot through the back into his vital organs and prior to his death, Tommy  
8 Le endured hours of pre-death pain and suffering.

9       101. After King County Deputy Cesar Molina Shot Tommy Le, the King County Deputy  
10 Sheriffs handcuffed Tommy Le despite the fact that he was bleeding profusely from mortal wounds.

11       102. King County Sheriff Deputy Cesar Molina knowingly violated Tommy Le's United  
12 States Constitutional right to be free of excessive force upon detention and arrest in violation of 42  
13 U.S.C. § 1983.

14       103. After being shot, Tommy Le was transported by Aid Car to Harborview Medical Center  
15 in Seattle, and died of the wounds inflicted by King County Deputy Sheriff Cesar Molina.

16       104. Knowing that the use of deadly force to detain, seize, or restrain unarmed Tommy Le  
17 violated clearly established statutory and constitutional rights, the King County Sheriff's Office  
18 intentionally concealed the fact that Tommy Le was unarmed when he was shot and killed.

19       105. Knowing that use of deadly force to detain, seize, or restrain unarmed Tommy Le  
20 violated clearly established statutory and constitutional rights, the King County Sheriff's Office  
21 intentionally concealed the fact that Tommy Le was shot two times in the back.

22       106. Knowing that the use of deadly force to detain, seize, or restrain the unarmed Tommy  
23 Le violated clearly established statutory and constitutional rights, the King County Sheriff's Office

1 intentionally misstated to the public that, “*Tommy Le was shot because he was attacking the deputies*  
 2 *with a knife*”.

3 107. Knowing that Tommy Le was unarmed when he was shot by King County Deputy  
 4 Sheriffs, representatives of the King County Sheriff’s Office, went to the Le family home and told the  
 5 Le family members that, “*Tommy Le was shot because he was attacking the deputies with a knife*”.

6 108. Knowing that use of deadly force to detain, seize, or restrain the unarmed Tommy Le  
 7 violated clearly established statutory and constitutional rights, the King County Sheriff’s Office  
 8 intentionally misstated to Tommy Le’s family that Tommy Le was armed with a knife and was  
 9 attacking the Sheriff Deputies with a knife when he was shot and killed.

10 109. It was reasonably foreseeable to defendants that the unlawful killing of Tommy Le  
 11 would cause the Le family to suffer emotional and psychological harm.

12 110. Defendants unlawful, reckless, and/or negligent shooting and killing of Tommy Le, an  
 13 unarmed 120 pound high school student, caused the Plaintiff Le family emotional distress and  
 14 psychological harm.

15 111. It was reasonably foreseeable to Defendant King County Sheriff’s Office that  
 16 misrepresenting to the public, press, and to the Le family privately that Tommy Le was armed with a  
 17 knife and was attacking the Sheriff’s deputies with a knife when he was shot and killed would cause  
 18 additional emotional and psychological harm to the Le family, loss of the respect of the Vietnamese  
 19 community, and extreme shame from these alleged actions of an armed Tommy Le

20 112. The Le family members, Plaintiffs Hoai “Sunny” Le, Tommy Le’s father, Dieu Ho,  
 21 Tommy Le’s mother, Bao Xuyen Le and Uyen Le, Tommy Le’s aunts, Kim Tuyet Le, Tommy Le’s  
 22 grandmother, and Quoc Nguyen, Tam Nguyen, Dung Nguyen, Julia Nguyen, and Jefferson Nguyen  
 23 Tommy Le’s brothers and sisters, suffered avoidable humiliation and emotional and psychological

1 harm as a result of the King County Sheriff's Office's intentional misrepresentations that Tommy Le  
2 was armed with and attacking Deputy Sheriffs with a knife when he was shot and killed.

3       113. The actions of the King County Sheriff's Office in knowingly misrepresenting to the  
4 public, press, and family that at the time Tommy Le was shot, "*Tommy Le was armed with knife and*  
5 *shot because he was attacking deputy sheriffs with a knife*", and the actions of conspiring to conceal  
6 the truth that Tommy Le was unarmed when he was shot in the back was intentional or reckless and  
7 constitutes outrageous conduct that was so extreme and outrageous in degree and character as to go  
8 beyond all possible bounds of decency and should be regarded as atrocious and utterly intolerable in a  
9 civilized community.

10       114. Plaintiffs, the Le Family, maintained a close loving relationship with the deceased,  
11 Tommy Le, who was raised with his parents, aunts, grandmother, and family members. The unlawful  
12 death of Tommy Le has resulted in Decedent Tommy Le's parents, grandmother, aunts, and siblings'  
13 loss of the benefit and enjoyment of the parent/child, grandmother/grandson, aunts/nephew, and  
14 siblings' relationships.

15       115. A contributing cause of the death of Tommy Le, and the violation of his Washington  
16 state and federal constitutional rights to be free of unreasonable seizure, was the unconstitutional  
17 policies, practices, and operating procedures of the King County Sheriff's Office.

18       116. A contributing cause of the death of Tommy Le, and the violation of his Washington  
19 state and federal constitutional rights to be free of unreasonable seizure, was the improper selection,  
20 training, and supervision of Deputy Sheriffs by the King County Sheriff's Office.

21       117. A contributing cause of the death of Tommy Le was the negligence of the King County  
22 Deputies present at the scene of the shooting and of the King County Sheriff's Office.

1       118. The negligence of the King County Sheriff's Office was a contributing cause of the  
2 death of Tommy Le.

3       119. X

4       120. King County Sheriff failed to develop, implement, and supervise policies and practices  
5 that assured that Deputy Sheriffs were properly selected, trained, instructed, and supervised regarding  
6 the constitutional restrictions upon, and the effective alternatives to, the use of deadly force against  
7 suspects who appear to be disturbed or confused persons suffering from some type of emotional or  
8 mental disorder and on racially selective law enforcement.

9       121. The negligence of King County, King County Sheriff, and the King County Sheriff's  
10 Office includes, but was not limited to: the negligent selection, training, assignment, and supervision  
11 of King County Deputy Sheriffs Cesar Molina and Owens.

12       122. The negligence of the King County, King County Sheriff, and the King County Sheriff's  
13 Office includes, but is not limited to: failure to employ effective de-escalation tactics; failure to employ  
14 available non-lethal alternative methods to detain, seize, or restrain Tommy Le; negligent selection,  
15 training, assignment, and supervision of deputy sheriffs; failure to properly train and encourage  
16 deputies in the effective use of de-escalation and alternative non-lethal methods to detain, seize, and  
17 restrain individuals including individuals suffering from apparent mental or psychological episodes;  
18 and, other actions and non-actions to be proven at trial.

19       123. Several weeks after Tommy Le was shot and killed by King County Deputy Sheriffs,  
20 the then King County Sheriff John Urquhart went to the Le family home and told the Le family  
21 members that given the facts of the case, "*he would not have shot Tommy Le.*"

22       124. On October 11<sup>th</sup>, 2017 in public statements to members of the Asian Pacific Director's  
23 Coalition, the then King County Sheriff John Urquhart responded to individuals expressions of

1 concerns about the inappropriate use of deadly force upon Tommy Le and stated “*I can’t tell you why*  
 2 *the officer didn’t wrestle him to the ground and take that pen out of his hand. That’s what I would have*  
 3 *done.*”

4 125. The Le family Plaintiffs are a traditional Vietnamese family. Traditional Vietnamese  
 5 families seek to bring honor to the family and family ancestors and avoid shame. Shame results in the  
 6 loss of honor.

7 126. The false claim by King County and the King County Sheriff that Tommy Le attacked  
 8 police officers armed with a knife was deeply shameful for the Le family Plaintiffs.

9 **6. FIRST CAUSE OF ACTION:**

10 **Federal Civil Rights Violations of the United States Constitution 4<sup>th</sup> and 14<sup>th</sup>  
 Amendments, under 42 U.S.C. § 1983**

11 127. By virtue of the facts set forth above, all the defendants are liable for compensatory and  
 12 punitive damages for the deprivation of the civil rights of the deceased Tommy Le, which is guaranteed  
 13 by the Fourth Amendment to the United States Constitution and 42 U.S.C. § 1983 to be free from  
 14 unreasonable seizure of his person in the form of the Deputy Sheriffs’ use of excessive (deadly) force.

15 128. King County Deputy Sheriff Cesar Molina violated 42 U.S.C. § 1983 when he used  
 16 excessive (deadly force) against Tommy Le.

17 129. By virtue of the facts set forth above, all the defendants are liable for compensatory and  
 18 punitive damages for the deprivation of the civil rights of the deceased Tommy Le which are guaranteed  
 19 by the 14<sup>th</sup> Amendment to the United States Constitution and 42 U.S.C. § 1983, to be free of racially  
 20 selective law enforcement and/or the use of deadly force.

130. Defendant King County Deputy Sheriff Cesar Molina violated 42 U.S.C. § 1983 and  
Tommy Le's right as an Asian American to equal protection of the law irrespective of his race, as  
guaranteed by 14<sup>th</sup> Amendment to the United States Constitution.

131. By virtue of the facts set forth above, all the defendants are liable for compensatory and punitive damages for the deprivation of the civil rights of, defined as the liberty interests of the deceased Tommy Le's parents, Dieu Ho and Hoai "Sunny" Le, for the loss of companionship and society of their adult child Tommy Le guaranteed by the 14<sup>th</sup> Amendment to the United States Constitution and 42 U.S.C. § 1983.

## 7. SECOND CAUSE OF ACTON:

## **Washington State Law Claim of Wrongful Death RCW 4.20.020 and Survival Action RCW 4.20.046**

132. Due to the facts set forth above, all the defendants are liable to the Estate of Tommy Le for compensatory damages for negligently causing the death of Tommy Le.

## 8. THIRD CAUSE OF ACTION:

## Washington State Law Claim for the Tort of Outrage

133. By virtue of the facts set forth above, all the defendants are liable to Plaintiffs, the Le family members, for the tort of outrage.

## **9. FOURTH CAUSE OF ACTION:**

## **Washington State Law Claims for Reckless or Negligent Infliction of Emotional Distress**

134. By virtue of the facts set forth above, all the defendants are liable to Plaintiffs, the Le family members, for reckless or negligent infliction of emotional distress.

## 10. FIFTH CAUSE OF ACTION:

## Negligent Selection, Training, and Supervision

135. By virtue of the facts set forth above, Defendant King County, is liable to the Plaintiffs for negligent selection, training, and supervision of the King County Deputy Sheriffs, including Deputy Sheriff Cesar Molina.

## 11. SIXTH CAUSE OF ACTION

## *Respondeat Superior*

128. By virtue of the facts set forth above, Defendant King County is liable under the doctrine of *respondeat superior* for the negligent acts of its employees, the King County Sheriff, the King County Deputy Sheriffs, including King County Deputy Sheriff Cesar Molina, who were at all material times hereto acting in the course of and in the scope of their employment with King County and the King County Sheriff's Office.

## 12. RELIEF REQUESTED

129. Plaintiffs request the Court enter judgment for the plaintiff for:

1. Compensatory damages in excess of \$75,000.00;
2. General damages to be proven at trial;
3. Punitive damages as the jury finds just and proper;
4. Prejudgment interest on liquidated damages;
5. Attorney fees and litigation costs as determined by the Court;
6. Other such remedies as this Court deems appropriate.

DATED May 30<sup>th</sup>, 2018.

By   s/ Jeffery M. Campiche \_\_\_\_\_  
Jeffery M. Campiche, WSBA No. 7592  
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